

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Mail Classification Schedule  
Minor Modifications for  
Global Expedited Package Services (GEPS) Contracts

Docket No. MC2012-8

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE NOTICE OF MINOR CLASSIFICATION  
CHANGE FOR GLOBAL EXPEDITED PACKAGE SERVICES CONTRACTS

(February 8, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1187.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service notice concerning a classification change to the minimum postage requirement that a mailer must meet in order to qualify for a Global Expedited Package Services (GEPS) contract.<sup>2</sup>

GEPS contracts are marketed to small- and medium-sized businesses that satisfy prescribed capability requirements and make revenue commitments in exchange for incentive pricing on Express Mail International (EMI) and Priority Mail International (PMI). To qualify for a GEPS contract “a mailer must be capable, on an annualized basis, of either tendering at least 2,500 pieces of international mail to the Postal Service, or paying at least \$50,000.00 in international postage to the Postal Service.”<sup>3</sup>

In its Notice, the Postal Service announces elimination of the requirement that a mailer must tender at least 2,500 pieces of international mail. Notice at 1. The Postal Service also increases the required minimum amount of international postage that a mailer must be capable of paying to \$200,000.00. *Id.*

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<sup>1</sup> PRC Order No. 1187, Notice and Order Concerning Classification Change, January 31, 2012.

<sup>2</sup> Notice of the United States Postal Service of Minor Classification Change, January 30 2012 (Notice).

<sup>3</sup> Mail Classification Schedule, 2510.3.1.

## COMMENTS

The Postal Service's Notice is filed pursuant to 39 C.F.R. §§ 3020.90 and 3020.91. Sections 3020.90 and 3020.91 permit the Postal Service to initiate changes to the Mail Classification Schedule (MCS) that do not constitute a proposal to modify either the market dominant or competitive product list. 39 C.F.R. § 3020.91. In effect, these sections permit the Postal Service to make relatively minor changes to the MCS via notice to the Commission as an alternative to the requirements of section 3020.30 *et. seq.* Such requirements prescribe a much larger filing with the Commission that include a detailed description of the Postal Service's request to modify the market dominant or competitive product list and an extensive statement of Supporting Justification which must address among other matters "the likely impact of the proposed modification on small business concerns." 39 C.F.R. § 3020.32(h).

In this proceeding, the Postal Service's Notice satisfies the letter of the filing requirements under sections 3020.90 and 3020.91. However, it is not a "minor" classification change in terms of its impact on small- and medium-sized businesses and the GEPS product.

As noted above, the Postal Service is eliminating the 2,500 volume requirement and instead relying on a minimum postage requirement of \$200,000, rather than the current \$50,000, as the sole determinant of whether a mailer qualifies for a GEPS contract. This represents a 300 percent increase in the qualifying requirement for GEPS contracts. As a result, this "minor" classification change will have a significant impact on small- and medium-sized businesses. Numerous small- and medium-sized businesses will likely be excluded from access to negotiated EMI and PMI rates available only through GEPS contracts. The exclusion of numerous small- and medium-sized businesses also affects the cost or market characteristics of the GEPS product.

Moreover, with this increase, the Postal Service is completing the process reducing the availability of negotiated EMI and PMI rates through any type of GEPS contract to small- and medium-sized businesses. In Docket Nos. MC2012-4/CP2012-8,

the Commission approved a Postal Service-requested classification change to the Global Expedited Package Services—Non-Published Rates 3 (GEPS—NPR 3) product.<sup>4</sup> That classification change, like the change noticed in this proceeding, increased the minimum postage requirement to \$200,000 from \$50,000. In comments presented in Docket Nos. MC2012-4/CP2012-8, the Public Representative observed that this change would “limit the number of small and medium sized businesses who may seek to enter into a GEPS—NPR 3 contract [and disqualify] current customers [that may] no longer be able to meet the new higher revenue requirement.”<sup>5</sup> This contrasts with the stated purpose of the GEPS—NPR product when initially added to the competitive product list. According to the Postal Service, the stated purpose was to streamline the process of approving GEPS—NPR contracts so as to expand the availability of negotiated rates for small- and medium-sized businesses by utilizing a standardized contract for all qualifying mailers and formula-based rates tailored to each mailer’s revenue commitment and entry profile, and minimizing *a priori* review by the Commission.<sup>6</sup>

Given the importance of this change to small- and medium-sized businesses, the Commission should consider requiring the Postal Service to provide a statement of Supporting Justification that describes the impact of its noticed classification change on small- and medium-sized businesses. At a minimum, such a statement should describe the impact on potential new mailers and current mailers that would no longer qualify for GEPS contracts. The statement should also discuss the effect of excluding numerous small- and medium-sized businesses on the cost or market characteristics of the GEPS product. If necessary, it would be reasonable for the Commission to delay acceptance of the noticed classification change until the Postal Service provides such a description.

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<sup>4</sup> PRC Order No. 1161, Order Approving Postal Service Request to Add Global Expedited Package Services—Non-Published Rates 3 (GEPS—NPR 3) to Competitive Product List, Docket Nos. MC2012-4 and CP2012-8, January 20, 2012.

<sup>5</sup> Public Representative Comments, Docket Nos. MC2012-4 and CP2012-8, January 6, 2012, at 2.

<sup>6</sup> See Notice and Request of the United States Postal Service Request Concerning Global Expedited Package Services—Non-Published Rates and Application for Non-Public Treatment of Materials Filed Under Seal, Docket No. MC2010-29 and CP2010-72, July 16, 2010, at 8-10.

In addition, the Commission should consider amending its rules under which “minor” modifications to the MCS can be noticed by the Postal Service pursuant to 39 C.F.R. §§ 3020.90 and 3020.91. These sections permit notice based upon an interpretation that a proposed modification corrects product descriptions in the MCS or otherwise is limited or editorial in nature. As this proceeding reveals, the Postal Service considers its notice to be a simple correction of the GEPS product description to reflect a new minimum postage requirement to qualify for a GEPS contract, even though that change has a significant impact on small- and medium-sized businesses which in turn affects the cost or market characteristics of the product.

Consequently, the primary test governing the Postal Service’s use of a notice pursuant to 39 C.F.R. §§ 3020.90 and 3020 should be whether or not any proposed modification affects the cost or market characteristics of the product in question. If there is an effect on cost or market characteristics, a change in the market dominant or competitive product list (as applicable) is warranted and the proposed modification should be filed pursuant to 39 C.F.R. §3020.30 *et. seq.* If there is no effect, notification of the minor modification should be permitted pursuant to 39 C.F.R. §§ 3020.90 and 3020.91.

The Public Representative respectfully submits the foregoing comments for the Commission’s consideration.

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